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Federal Communications Commission

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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| In the Matter of |) | |
| |) | |
| Equal Access and |) | CC Docket No. 94-54 |
| Interconnection Obligations |) | RM 8012 |
| Pertaining to Commercial |) | |
| Mobile Radio Services |) | |

COMMENTS OF WATERWAY COMMUNICATIONS SYSTEM, INC.

Waterway Communications System, Inc. (WATERCOM) respectfully submits its comments responsive to the Notice of Proposed Rulemaking and Notice of Inquiry issued by the Federal Communications Commission as it considers whether to impose equal access obligations upon commercial mobile radio service (CMRS) providers and further considers the form and nature of interconnection by and between CMRS providers.^{1/}

I. STATEMENT OF INTEREST AND BACKGROUND.

WATERCOM is the licensee of an Automated Maritime Telecommunications System (AMTS), licensed under Part 80, Subpart J, of the Commission's rules and regulations. The WATERCOM system, located along the Mississippi, Illinois and Ohio Rivers and the Gulf Intracoastal Waterway, provides telecommunication service to the maritime industry operating

^{1/} 59 Fed. Reg. 35664 (July 13, 1994).

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along the inland waterway transportation network. WATERCOM renders interconnected telecommunications service to the user public, and its service has been classified as a Commercial Mobile Radio Service (CMRS) by the Commission in the Second Report and Order in GN Docket No. 93-252, Regulatory Treatment of Mobile Services, 9 FCC Rcd 1411, 1448 (1994).

To serve the maritime industry along the 4000 mile inland transportation corridor, WATERCOM's network consists of 54 shore stations spaced at intervals of approximately 70 miles and an operations and control center (OCC) located near the geographic center of the system in Jeffersonville, Indiana. Each shore station contains radio transmitting/receiving facilities and is both interconnected with the landline telephone network on a local basis and connected with the OCC. Calls from vessels normally are interconnected with the landline network locally; however, users can reach the WATERCOM operator at the OCC and have their calls connected with the landline network at that location. Landside users have the option of calling a vessel through its 10-digit telephone number, and having the OCC route the call to the serving shore station, or dialing the shore station directly, if the vessel location is known, and connect on a local basis.

Over 90% of the user community consists of commercial maritime operators, including towing vessels, dredges and workboats. Thus, in contrast to landside CMRS providers such as cellular, PCS, etc., whose potential customer base numbers in the hundreds of thousands and even millions, WATERCOM's potential community of commercial operators numbers less than 5000. This differentiation between categories of CMRS providers is critical to the Commission's decision in this proceeding in that the economies of scale applicable to cellular and similarly situated CMRS providers simply are not achievable in an AMTS environment.

WATERCOM recently has addressed the equal access issue in the context the Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA). These issues were raised in the following proceedings: the GTE Service Corporation Petition for Declaratory Ruling, MSD 92-14 (Comments, Apr. 16, 1992 and Petition for Reconsideration of Common Carrier Bureau Ruling, Sept. 27, 1993); the CMRS rulemaking, GN Docket No. 93-252 (Comments, Nov. 8, 1993), and the CMRS "further forbearance" rulemaking, GN Docket No. 94-33 (Comments, June 24, 1994 and Reply Comments, July 12, 1994). In those proceedings, equal access was consequential to application of TOCSIA; the Commission now considers equal access on its own merits within the CMRS environment and as applicable to the particular CMRS categories.

II. EQUAL ACCESS.

WATERCOM users currently have equal access available in both ship-to-shore and shore-to-ship calling directions. For the latter, the user necessarily controls call routing, and can elect to route calls to the WATERCOM network via its IXC of choice under its standard outdialing procedure. From the vessel, users can access the 1-800 network, and so can elect to control their own IXC routing. WATERCOM's rates differentiate between end-to-end service and calls to an 800-number, recognizing WATERCOM's avoidance of landside routing costs. Since initiation of service some 7 years ago, WATERCOM management does not recall a single instance of a subscriber specifically requesting IXC routing capability.

The Commission recognizes in the instant Notice that equal access may impact the individual categories of CMRS service differently from the standpoint of costs and benefits.^{2/} Some parties in response to the MCI Petition and in the GN Docket No. 93-252 rulemaking objected to imposition of the equal access requirements but

^{2/} The Commission also acknowledges that merely because equal access applies to landline carriers that it need not apply to CMRS providers. Notice at ¶ 3. See also Offshore Tel. Co. v. South Central Bell Tel. Co., 6 FCC Rcd 2286 (1991) and Offshore Tel. Co., 3 FCC Rcd 4513 (1988), where the Commission noted that the economics of radio-based common carrier services are substantially different from those of the landline network.

alternatively suggested that the same rule apply to all CMRS providers.^{3/} These suggestions are made without specific analysis with regard to each of the subcategories of CMRS provider. The Commission is correct in its recognition that costs, demand, and technical limitations must be considered with regard to each CMRS category.

The Commission acknowledges that CMRS providers, other than cellular, do not enjoy market power. This is particularly true with regard to AMTS service. Competition exists in the form of traditional VHF maritime service, cellular service and satellite services; and the competition will intensify as new satellite carriers and services are implemented in the near term. Moreover, there simply has been no demand for equal access by AMTS subscribers. WATERCOM cannot recall a single instance in which a subscriber has requested the ability to control IXC selection.^{4/} This is understandable by virtue that the radiolink is the dominant cost factor in communication between ship and shore.

Importantly, in contrast to the landside network where the operating environment is relatively stable, WATERCOM

^{3/} Notice at ¶ 17.

^{4/} In a very minuscule number of calls the subscriber has dialed an IXC's 1-800 access number without WATERCOM operator intervention.

operates in an environment of communication over water and at extended distances, and interconnection is achieved through small switches frequently connecting with small local exchange carriers in rural areas. Network management and control therefore are of extreme importance in the WATERCOM AMTS network. The Commission recognizes the technical limitations upon imposition of equal access with regard to MSS and air-to-ground service providers,^{5/} and similar circumstances prevail in the AMTS service.

Additionally, there are technical problems of compensation presented by imposing a 10-XXX or 1+- dialing scheme in the CMRS environment. The Commission's prescription of pay phone compensation in the landline environment simply will not work in the AMTS or CMRS environment due to the different, and substantially higher, cost structure attendant to CMRS operations. This is dramatically illustrated by AT&T's comments in the GTE Service Corporation Petition for Declaratory Ruling, MDS 92-14, on the issue of compensating Petroleum Communications for call origination. AT&T advised the Commission that there is no practical mechanism for tracking calls placed from CMRS telephones. It further indicated that neither it nor any other OSP should be required to compensate the CMRS

^{5/} See Notice at ¶ 48, nn.104 and 105.

provider unless the OSP specifically agrees to have its access code unblocked. AT&T Comments, Oct. 12, 1993. Accordingly, whatever the theoretical concept of equal access in a CMRS environment may be, there are substantial technical, operational and economic barriers to implementation.

Moreover, as the Commission readily acknowledges, from a cost standpoint there is a significant difference between imposing equal access on networks which have not been constructed and on those which are fully implemented and operational.^{6/} As discussed above, equal access is available via the interexchange carriers' 800- numbers. As WATERCOM previously has detailed to the Commission, converting to the 10-XXX protocol would require conversion at each of WATERCOM's fifty-four (54) remote shore stations as well as at the OCC. The cost for such conversion would exceed \$250,000.00.^{7/} That cost is over \$4,500 per location. In contrast, the Commission utilized a \$15.00 per line cost as a benchmark for determination of equal access requirements in Policies and Rules Concerning Operator Service Access, 6 FCC Rcd 4736, 4742 (1991). This cost clearly would be excessive, and a pre-subscription protocol

^{6/} Notice at ¶ 46.

^{7/} See WATERCOM Comments, GN Docket No. 94-33 at p. 8.

entailing 1+-dialing undoubtedly would far exceed the 10-XXX conversion costs.

As a small and specialized CMRS provider, wherein the landline transport is a relatively small component of the communications service rendered, there is neither demand for or public benefit in imposing equal access obligations upon WATERCOM. The costs are substantial and far, far exceed any cognizable benefit to the user community.

III. INTERCONNECTION.

WATERCOM sees no requirement for tariffing of interconnection provisions, other regulation of interconnection (e.g., filing contracts or requiring "most favored nation" clauses in interconnection agreements), or for CMRS-to-CMRS direct interconnection on a generic basis.

Most local exchange carriers offer interconnection under tariff. Accordingly, further tariffing requirements are not necessary. Filing of contracts formerly was required by the Commission; however, access to and use of those contracts was virtually impossible. With the growth of CMRS providers, the filing of interconnection contracts would be a substantial burden upon the Commission if the contracts were to be catalogued in order to provide access

on a meaningful basis.^{8/} With regard to the "most favored nation" clause proposal, that provision is virtually impossible to police unless contracts are required to be filed and are made available.

Whatever the merits of CMRS-to-CMRS interconnection may be with regard to cellular providers, this concept makes no sense whatsoever for AMTS service. Indeed, the Commission rejected the notion of direct connection of competing AMTS systems in the rulemaking establishing the frequency allocation and operating rules for this service.^{9/} Considering that WATERCOM's network operates over the 4,000 mile inland river transportation corridor, and further considering that its shore stations are distributed throughout its service area, many in rural locations, there is no apparent benefit, or even practical use, of CMRS-to-CMRS interconnection.

WHEREFORE, THE PREMISES CONSIDERED, Waterway Communications System, Inc., respectfully urges the Federal Communications Commission to EXCLUDE Automated Maritime

^{8/} Cross-indexing by both LEC and CMRS provider would be required for meaningful use.

^{9/} The specific proposal declined by the Commission entailed use of a common signaling channel by competing systems to provide interoperability. Inland-Waterway Communications System (MO&O on Reconsideration), 88 F.C.C.2d 678, 688-693, aff'd sub nom, WJG Tel. Co. v. FCC, 675 F.2d 388 (D.C. Cir. 1982).

Telecommunications Service providers from any imposition of equal access or CMRS-to-CMRS interconnection requirements which may be imposed in this proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Martin W. Bercovici", is written over a horizontal line.

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Due: September 12, 1994